

**PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING  
CITY HALL, 8<sup>TH</sup> FLOOR  
COMMISSION CONFERENCE ROOM  
THURSDAY, April 17, 2008 – 10:00 AM**

**BOARD MEMBERS PRESENT**

Bob Dunckel, Assistant City Attorney  
Tom Terrell, Public Works Maintenance Manager  
Mark Darmanin, Utilities Distr. & Collections Manager  
Tony Irvine, Surveyor  
Anthony Fajardo, Planner III  
Carol Ingold-Mordas, Parks and Recreation  
Michael Maloney, Code Enforcement Manager  
Peter Partington, City Engineer

**STAFF**

Victor Volpi, Senior Real Estate Officer  
Jamie Opperee, Recording Clerk, Prototype, Inc.

**CALL TO ORDER**

Mr. Partington called the meeting to order at 10:08 a.m., and stated this was a Committee with the responsibility of advising the City Manager and City Commission on matters connected with City property and public rights-of-way.

Following roll call, it was determined that a quorum was present.

**ITEM ONE:**                      **APPROVAL OF MARCH 20, 2008 MINUTES**

Mr. Irvine requested clarification on Page 2, Paragraph 2, the easement being discussed was the sidewalk running up SW 43rd Way, not the pavement on 21<sup>st</sup> Street. Mr. Irvine asked that the words "... on SW 43rd Way ..." be added.

**Motion** made by Mr. Darmanin, seconded by Mr. Terrell, to approve the minutes of the March 20, 2008 meeting, with corrections. In a voice vote, the motion passed unanimously.

**ITEM TWO:**                      **CONSTRUCTION OF SIDEWALK IMPROVEMENTS TO ROAD**

General Location:              North and South side of SW 21 Street and  
the East side of 43 Way

As Ms. Goombs was not present, the item was deferred.

**ITEM THREE**

**DRAINAGE IN RIGHT-OF-WAY**

General Location: The two (2) alleys that surround 1101 – 11 Waverly Road

Mr. Volpi introduced this item stating that The Waverly at New River, Inc. would like a positive recommendation to place a drainage system in two (15-foot) platted alleys that surround their development. The system includes: corrugated aluminum pipe, pollution retardant baffles, an infiltration trench, clean outs, and catch basins to drain the alley only. If approved the alley will be paved, open to the public and maintained entirely (including the drainage system) by "The Waverly." All required permits will be obtained by "The Waverly" and all necessary terms as to liability, etc. will be included in the agreement with the City.

Mr. Terry Paterson, agent of the owner, explained the alleyway ran the length of the property, was used as a driveway, and contained a drainage system previously approved by the City. Mr. Paterson stated the building was 80% complete, and the Homeowner's Association documents would state The Waverly was 100% responsible for maintaining the drainage system.

Mr. Dunckel asked for clarification regarding the purpose of the drainage. Mr. Paterson explained the system would drain the entire property, not just the alleyway. Mr. Paterson noted the property had significant green space, but still did not provide enough drainage for the development. This significant drainage system was being added to meet County standards and requirements.

Mr. Partington noted the building permit plans had been approved with the requested drainage system, and the application just needed to be approved. Mr. Irvine stated the provided drawings showed a grade which would keep the water on site, using the drainage system only for the alley area. Mr. Paterson agreed the water would be contained on site, and the alleyway would be used for access.

Mr. Paterson advised the paving permit was in process, but could not be completed until the drainage system was installed. Mr. Terrell asked if the alleyway was being improved. Mr. Paterson emphasized the whole area was being improved, including the alleyway.

Mr. Terrell felt the alleyway should have been approved by Engineering separately from the rest of the development. Mr. Paterson explained the Engineering Department had been concerned with who would maintain the drainage system. Mr. Paterson assured the Committee the applicant would take responsibility.

Mr. Dunckel expressed concern regarding the documentation in the Homeowner's Association documents, as the Homeowner's Association documentation was a

covenant between the developer and the successors in interest. The documentation would be needed to describe "common area" maintenance obligations for residents, but was not sufficient to serve as a contract between the City and the developer. Mr. Dunckel suggested a more specific contract, and asked Mr. Paterson to contact Sharon Miller, Assistant City Attorney, and Dennis Grisden, Engineering representative, to draw up the proper documentation.

Mr. Irvine asked what maintenance implications were present in a special assessment improvement project. Mr. Dunckel stated the City would assume the maintenance obligations unless the project was a neighborhood improvement project. Mr. Irvine asked how the applicant's project differed from an improvement project. Mr. Dunckel explained an assessment project would benefit more than one development. In the applicant's case the restrictive covenants in the resident's contracts would obligate the town home owner's for the maintenance costs. Mr. Dunckel continued by explaining a contract with the City would obligate the property owners in the future to the maintenance costs. Mr. Terrell noted other than the scale of the project, this application would not be much different from many other projects around the City.

**Motion** made by Mr. Irvine, seconded by Mr. Darmanin, to recommend approval of the installation of improvements in the alleyway as presented, with the condition the necessary documents and provisions be crafted through the City Attorney's office, and in consultation with the City Engineer's office to make sure that the responsibility for maintenance travels with the land and with the future owners of the individual units. Mr. Partington opened the motion for discussion.

Mr. Partington suggested the applicant be required to pull in an engineering firm as a condition of the approval. Mr. Irvine noted the consultation with the City Engineers would fulfill that requirement.

In a voice vote, the motion passed unanimously.

**ITEM TWO:**                      **CONSTRUCTION OF SIDEWALK IMPROVEMENTS TO ROAD**

General Location:              North and South side of SW 21 Street and  
   the East side of 43 Way

Mr. Volpi stated the issue had been discussed in a previous meeting, and was unsure if Ms. Goombs was aware of the meeting on this date.

Mr. Dunckel noted the extension of 21<sup>st</sup> Street was referred to as an easement, and requested clarification of the property as an easement. Mr. Irvine stated 21<sup>st</sup> Street is a road built over City property, and the applicant was requesting an easement.

Mr. Darmanin suggested the approval be issued in a revocable license versus an easement. Mr. Darmanin explained at some point when the wells are drilled the road may need to be reclaimed and fenced, and there needed to be an avenue to make that change at a later date. Mr. Dunckel stated easement deeds could be crafted to “go away” under certain circumstances, and although the County may be uncomfortable with a revocable license, Mr. Dunckel would prefer the revocable license. Mr. Terrell noted it would have been helpful to have Chen and Associates appear with a County representative to allow for discussion.

Mr. Partington asked for clarification regarding the past delay in the approval. Mr. Darmanin stated there had been a lack of information provided by Chen and Associates to the Committee as to what they were going to need. Mr. Partington asked if the concerns had been addressed in the updated information provided by Chen and Associates. Mr. Irvine stated some areas had been addressed, but open questions still remained.

Mr. Terrell explained they were dealing with City property in unincorporated Broward County that did not have any buildings. Maps and aerials had been requested by Chen Associates. Mr. Volpi explained the application would cover milling, resurfacing, and the installation of a concrete sidewalk to replace the asphalt sidewalk.

The Committee held a discussion regarding the original construction of the existing roadway and sidewalk in question, including a discussion of the possibility of issuing a revocable license. Mr. Terrell noted Chen and Associates were making the application on behalf of the County, and were aware of the issues involved with this piece of property.

Mr. Dunckel suggested the possibility of taking a proactive move and closing the roadway. Mr. Irvine asked if there would be a way to approve the application, and include an agreement with the County to preclude the County filing a right-of-way map. Mr. Dunckel explained a standard revocable license would not work, and the addition of that kind of a clause would be a “red flag”.

Mr. Partington suggested allowing the sidewalk to be built under a revocable license, and require an Engineering permit for resurfacing of the road. Mr. Terrell stated the permit would be a Broward County building permit, not an Engineering permit as the property is not right-of-way.

Mr. Dunckel questioned the advisability of opening the door with County officials regarding an interlocal agreement. Mr. Dunckel emphasized the right of the well field was more important than 300 feet of roadway and sidewalk. Mr. Irving asked about the possibility of drafting an agreement with the County accepting a donation of sidewalk and road resurfacing improvements on City property, which would claim the property as belonging to the City. Mr. Dunckel explained by using a revocable license the liabilities for trips and falls, and maintenance would be shifted to the licensee.

Mr. Terrell noted the application really had nothing to do with the original sewer project, but was only being done for the benefit of the neighborhood. Mr. Terrell suggested the Committee could just tell the applicant no on the sidewalk and road improvements. Mr. Dunckel agreed to speak with Harry Stewart, City Attorney, regarding the issue. Mr. Partington suggested the issue be tabled to allow time for a recommendation from the City Attorney.

**Motion** made by Mr. Dunckel, seconded by Mr. Terrell, to table the motion. In a voice vote, the motion passed unanimously.

Mr. Partington raised the issue of a condominium with a request to install pavers in the right-of-way, and asked what type of legal document should be used to defer the maintenance costs to the condominium. Mr. Dunckel stated the standard City policy was for the City to make repairs. Although the City was not under any legal obligation to do so, it kept the neighborhoods happy. Mr. Dunckel was in the process of creating an addendum to the Engineering permit imposing maintenance obligations on the applicant.

Mr. Dunckel asked why the City would want to treat the condominium with a higher level of formality than was done for single family residences. Mr. Darmanin stated condominiums had been treated differently than single family residences in the past, and gave examples of past projects. Mr. Partington explained in this case the cul-de-sac area would be paved, which is used by the public more than a driveway.

Mr. Dunckel suggested either a supplemental document which would travel with the property, or a revocable license. Mr. Darmanin reminded the Committee there used to be a supplemental document to the Engineering permit that said if something out of ordinary was placed in the right-of-way, the City would not be responsible for replacement. Mr. Partington recalled the document was not really enforceable the way it was written. Mr. Dunckel explained the supplemental document was not filed with the public records, as opposed to the revocable license which was filed.

Mr. Partington explained the issue was becoming significant due to the costs incurred by the Water Works department when trying to excavate through resident's pavers. Mr. Dunckel felt the revocable license would be the best option in the particular situation.

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There being no further business to come before the Committee the meeting adjourned at 10:53 a.m.

[Minutes prepared by K. Bierbaum, Prototype, Inc.]